

AMENDED IN ASSEMBLY AUGUST 20, 2010

AMENDED IN SENATE MAY 4, 2010

AMENDED IN SENATE APRIL 26, 2010

AMENDED IN SENATE APRIL 5, 2010

AMENDED IN SENATE MARCH 23, 2010

SENATE BILL

No. 1091

**Introduced by Senator Hancock
(Coauthors: Senators Alquist and Leno)**

February 17, 2010

An act to amend ~~Sections~~ *Section* 14011.10 and 14053 of, and to add Section 14011.11 to, the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 1091, as amended, Hancock. Medi-Cal: individuals in county juvenile detention facilities.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services.

Under existing law, children in juvenile facilities are ineligible to receive Medi-Cal benefits.

This bill would, subject to the receipt of federal financial participation, ~~make~~ *provide that Medi-Cal benefits may be provided to* individuals awaiting adjudication in county juvenile detention facilities ~~eligible for Medi-Cal benefits if the~~ *an individual is receiving eligible to receive* Medi-Cal benefits at the time he or she is admitted to the detention facility, or the individual is subsequently determined to be eligible for

Medi-Cal benefits by the county welfare department, and the county agrees to pay the state's share of Medi-Cal expenditures and the state's administrative costs through an intergovernmental transfer of funds for the above-described benefits. This bill would provide that these individuals the individual would have their his or her Medi-Cal benefits continued for the first 30 days of the individual's stay in the county juvenile detention facility, or until the date of the individual's adjudication, whichever period of time is less.

This bill would require the department to seek all federal approvals or waivers necessary to implement these provisions and to allow for federal financial participation. The bill would provide that the above-described provisions shall be implemented on January 1, 2012, or on the date that all necessary federal approvals or waivers are obtained and federal financial participation is available, whichever is later.

This bill would provide that the above-described provisions shall be implemented only if, to the extent that, and on the date that the department receives written confirmation from the federal Centers for Medicare and Medicaid Services that federal financial participation is available and the Director of Health Care Services executes a declaration stating that implementing the above-described provisions will not jeopardize federal funding, as specified. The bill would require the director to cease implementing the bill under prescribed circumstances.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 14011.10 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 14011.10. (a) Except as provided in Section 14011.11, benefits
- 4 provided under this chapter to an individual under 21 years of age
- 5 who is an inmate of a public institution shall be suspended in
- 6 accordance with Section 1396d(a)(28)(A) of Title 42 of the United
- 7 States Code as provided in subdivision (c).
- 8 (b) County welfare departments shall be required to notify the
- 9 department within 10 days of receiving information that an
- 10 individual under 21 years of age on Medi-Cal in the county is or
- 11 will be an inmate of a public institution.

(c) If an individual under 21 years of age is a Medi-Cal beneficiary on the date he or she becomes an inmate of a public institution, his or her benefits under this chapter and under Chapter 8 (commencing with Section 14200) shall be suspended effective the date he or she becomes an inmate of a public institution. The suspension will end on the date he or she is no longer an inmate of a public institution or one year from the date he or she becomes an inmate of a public institution, whichever is sooner.

(d) Nothing in this section shall create a state-funded benefit or program. Health care services under this chapter and Chapter 8 (commencing with Section 14200) shall not be available to inmates of public institutions whose Medi-Cal benefits have been suspended under this section.

(e) This section shall be implemented only if and to the extent allowed by federal law. This section shall be implemented only to the extent that any necessary federal approval of state plan amendments or other federal approvals are obtained.

(f) If any part of this section is in conflict with or does not comply with federal law, this entire section shall be inoperable.

(g) This section shall be implemented on January 1, 2010, or the date when all necessary federal approvals are obtained, whichever is later.

(h) By January 1, 2010, or the date when all necessary federal approvals are obtained, whichever is later, the department, in consultation with the Chief Probation Officers of California and the County Welfare Directors Association, shall establish the protocols and procedures necessary to implement this section, including any needed changes to the protocols and procedures previously established to implement Section 14029.5.

(i) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement this section by means of all-county letters or similar instructions without taking regulatory action. Thereafter, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 2. Section 14011.11 is added to the Welfare and Institutions Code, to read:

14011.11. (a) To the extent that federal financial participation is available, *Medi-Cal* benefits ~~provided under this chapter~~ may

1 be provided to an individual awaiting adjudication in a county
2 juvenile detention facility if ~~all~~ *both* of the following requirements
3 are met:

4 (1) The individual is ~~receiving~~ *eligible to receive* Medi-Cal
5 benefits at the time the individual is admitted to the juvenile
6 detention facility; or the individual is subsequently determined to
7 be eligible for Medi-Cal benefits ~~by the county welfare department.~~

8 (2) The county agrees to pay the state's share of Medi-Cal
9 expenditures and the state's administrative costs ~~through an~~
10 ~~intergovernmental transfer of funds.~~ *for benefits under this section.*

11 (b) Benefits ~~provided available~~ pursuant to this section shall
12 continue ~~for the first 30 days of the individual's stay in the juvenile~~
13 ~~detention facility, or until the date of adjudication, whichever~~
14 ~~period of time is less.~~

15 (c) ~~Nothing in this section shall be construed to require a county~~
16 ~~to pay the state's share of Medi-Cal expenditures or the state's~~
17 ~~administrative costs for Medi-Cal benefits that the state is obligated~~
18 ~~to provide pursuant to an administrative action or court order that~~
19 ~~is final and no longer subject to appeal.~~

20 (d) ~~The department shall seek all federal approvals or waivers~~
21 ~~necessary to implement this section and to allow for federal~~
22 ~~financial participation.~~

23 (e) ~~This section shall be implemented on January 1, 2012, or~~
24 ~~on the date that all necessary federal approvals or waivers are~~
25 ~~obtained and federal financial participation is available, whichever~~
26 ~~is later.~~ *until the date of the individual's adjudication.*

27 (f)

28 (c) Notwithstanding Chapter 3.5 (commencing with Section
29 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
30 ~~initially the department shall~~ *may implement and administer* this
31 section by means of all-county letters or similar instructions
32 without taking regulatory action. Thereafter, the department shall
33 adopt regulations in accordance with the requirements of Chapter
34 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
35 Title 2 of the Government Code.

36 (d) *This section shall be implemented only if, and to the extent*
37 *that, both of the following occur:*

38 (1) *The department receives written confirmation from the*
39 *federal Centers for Medicare and Medicaid Services that federal*
40 *financial participation is available to implement this section*

pursuant to Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.).

(2) The director executes a declaration that states that implementation of this section will not jeopardize the state's ability to receive federal financial participation or any increase in federal medical assistance percentage (FMAP) available on or after October 1, 2008, or additional federal funds that the director, in consultation with the Department of Finance, has determined would be advantageous to the state.

(e) (1) If at any time the director determines that the statement in the declaration executed pursuant to paragraph (2) of subdivision (d) may no longer be accurate, the director shall give notice to the Joint Legislative Budget Committee and to the Department of Finance. Thereafter, if the director determines in consultation with the Department of Finance that it is necessary to cease implementation of this section in order to receive federal financial participation or any increase in FMAP available on or after October 1, 2008, or additional federal funds that the director, in consultation with the Department of Finance, has determined would be advantageous to the state, the director shall cease implementation of this section.

(2) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement paragraph (1) by means of all-county letters or similar instruction without taking regulatory action.

(f) If this section is implemented pursuant to subdivision (d), it shall be implemented commencing on the date that both conditions described in subdivision (d) have been satisfied.

~~SEC. 3.—Section 14053 of the Welfare and Institutions Code is amended to read:~~

~~14053. (a) The term "health care services" means the benefits set forth in Article 4 (commencing with Section 14131) of this chapter and in Section 14021. The term includes inpatient hospital services for any individual under 21 years of age in an institution for mental diseases. Any individual under 21 years of age receiving inpatient psychiatric hospital services immediately preceding the date on which he or she attains age 21 may continue to receive these services until he or she attains age 22. The term also includes~~

1 ~~early and periodic screening, diagnosis, and treatment for any~~
2 ~~individual under 21 years of age.~~

3 ~~(b) The term “health care services” does not include, except to~~
4 ~~the extent permitted by federal law, any of the following:~~

5 ~~(1) Care or services for any individual who is an inmate of an~~
6 ~~institution, except as a patient in a medical institution, or pursuant~~
7 ~~to Section 14011.11.~~

8 ~~(2) Care or services for any individual who has not attained 65~~
9 ~~years of age and who is a patient in an institution for tuberculosis.~~

10 ~~(3) Care or services for any individual who is 21 years of age~~
11 ~~or over, except as provided in the first paragraph of this section,~~
12 ~~and has not attained 65 years of age and who is a patient in an~~
13 ~~institution for mental disease.~~

14 ~~(4) Inpatient services provided to individuals 21 to 64 years of~~
15 ~~age, inclusive, in an institution for mental diseases operating under~~
16 ~~a consolidated license with a general acute care hospital pursuant~~
17 ~~to Section 1250.8 of the Health and Safety Code, unless federal~~
18 ~~financial participation is available for such inpatient services.~~